

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

ATS TREE SERVICES, LLC,

Plaintiff,

v.

FEDERAL TRADE COMMISSION; LINA M. KHAN, in her official capacity as Chair of the Federal Trade Commission; and REBECCA KELLY SLAUGHTER, ALVARO BEDOYA, ANDREW N. FERGUSON, AND MELISSA HOLYOAK, in their official capacities as Commissioners of the Federal Trade Commission,

Defendants.

No. 2:24-cv-01743-KBH

**JOINT MOTION FOR LEAVE TO FILE  
JOINT APPENDIX CONTAINING RELEVANT PORTIONS  
OF THE ADMINISTRATIVE RECORD**

In view of the length of the administrative record in this case, the parties respectfully seek leave to file a joint appendix containing the cited portions of the record on which any party relies in briefing, rather than the record in its entirety. In support of this motion, the parties state as follows:

1. In this case, Plaintiff challenges the Federal Trade Commission's ("the Commission") Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024) ("the Rule").
2. The administrative record in this case contains over 250MB of data. The Commission has produced the certified administrative record to Plaintiff by making the record publicly available on its website.

3. The parties anticipate, however, that only a fraction of the administrative record will be cited in this case. To avoid burdening the Court with thousands of pages of materials that will likely not be necessary to consult to resolve this case, the parties instead propose filing, by July 1, 2024 for the pending motion for stay of effective date and preliminary injunction, and within 14 days after the close of briefing on each subsequent motion for which briefs filed by any party rely on the record, a joint appendix containing only those portions of the record cited or otherwise relied on in the parties' briefs, with any surrounding material necessary for context. This joint appendix would be filed electronically on the court's Electronic Case Filing ("ECF") system.

4. This joint appendix procedure is the procedure used in the United States District Court for the District of Columbia, which handles many cases with voluminous administrative records. *See* D.D.C. Local Civil Rule 7(n)(1)–(2) (“[W]ithin 14 days following the final memorandum on the subject motion,” “counsel shall provide the Court with an appendix containing copies of those portions of the administrative record that are cited or otherwise relied upon in any memorandum in support of or in opposition to any dispositive motion. Counsel shall not burden the appendix with excess material from the administrative record that does not relate to the issues. Unless so requested by the Court, the entire administrative record shall not be filed with the Court.”), [https://www.dcd.uscourts.gov/sites/dcd/files/local\\_rules/Local%20Rules%20May\\_2022\\_0.pdf](https://www.dcd.uscourts.gov/sites/dcd/files/local_rules/Local%20Rules%20May_2022_0.pdf); *see also id.* (comment to Local Civil Rule 7(n)) (“This rule is intended to assist the Court in cases involving a voluminous record (e.g., environmental impact statements) by providing the Court with copies of relevant portions of the record relied upon in any dispositive motion.”).

WHEREFORE, the parties respectfully request leave to file a joint appendix containing the cited or otherwise relied on portions of the record, with any surrounding material necessary for

context, by July 1, 2024 for the pending motion for stay of effective date and preliminary injunction, and within 14 days after the close of briefing for each subsequent motion for which briefs filed by any party rely on the record. A proposed order is attached.

Dated: June 21, 2024

/s/ Sean Radomski

SEAN RADOMSKI

Pennsylvania Bar No. 319732

JOSHUA M. ROBBINS\*

Virginia Bar No. 91020

PACIFIC LEGAL FOUNDATION

3100 Clarendon Blvd.

Suite 1000

Arlington, VA 22201

Tel: (202) 888-6881

SRadomski@pacificlegal.org

JRobbins@pacificlegal.org

LUKE WAKE\*

California Bar No. 264647

PACIFIC LEGAL FOUNDATION

555 Capitol Mall, Suite 1290

Sacramento, CA

Tel: (916) 419-7111

LWake@pacificlegal.org

*Attorneys for Plaintiff*

*\*admitted Pro Hac Vice*

Respectfully submitted,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

LESLEY R. FARBY

Assistant Branch Director

/s/ Arjun Mody

RACHAEL L. WESTMORELAND

TAISA M. GOODNATURE

ARJUN MODY (DC # 90013383)

Trial Attorneys

U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street, NW

Washington, D.C. 20005

Tel: (202) 451-7723

E-mail: arjun.a.mody@usdoj.gov

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been filed electronically and is available for viewing and downloading from the ECF system.

/s/ Arjun Mody  
ARJUN MODY

**CERTIFICATE OF CONFERENCE**

I hereby certify that the parties have conferred and jointly request the relief sought in this motion.

/s/ Arjun Mody  
ARJUN MODY